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SUBJECT: RTG APPROACH TO DRAFTING THE ASEAN CHARTER

Classified By: Political Officer J.R. Littlejohn, reasons 1.4 (b) and (d)

SUMMARY

¶1. (C) The RTG will not support a change from consensus-based decision-making in ASEAN, and the Thais have demonstrated little interest in creating ASEAN mechanisms for sanctioning member states. As the RTG participates in deliberations on the ASEAN Charter, the legislature has solicited views from a decent cross-section of civil society groups. The RTG opposes creating a fourth environmental pillar, a suggestion coming out of the ASEAN Civil Society Organization (CSO) in the Philippines, preferring to spread environmental issues across the existing three pillars (political-security, economic, and socio-cultural) instead. Early expressions of hope that the ASEAN Charter would move the organization away from its dependence on consensus and create mechanisms for pressuring ASEAN members that fail to uphold or advance democratic norms are dwindling. End Summary.

¶2. (SBU) On April 3, MFA official Kanitha Sap-Paisal offered us an overview of the RTG contribution to the ASEAN Charter drafting process. Kanitha is a member of the MFA's High-Level Task Force (HLTF) Working Group charged with planning and drafting Thailand's views on the Charter. Kanitha said that Deputy Permanent Secretary Sihasak Phuangketkeow will no longer serve as Thailand's representative on the ASEAN HLTF, which includes representatives from each country. Sihasak is scheduled to depart Thailand for a new assignment in Geneva and his replacement on the HLTF is expected to be named in the coming weeks.

RTG'S APPROACH TO DRAFTING THE ASEAN CHARTER

¶3. (SBU) According to Kanitha, Thailand's HLTF member oversees a working group within the MFA that covers certain day-to-day drafting procedures. Once a draft is complete the RTG holds interagency meetings to solicit buy-in from the NSC, Police Bureau, Ministry of Commerce, Ministry of Health, Ministry of Education, and other relevant ministries. Any changes or new drafts are delivered to the HLTF representative for review before tabling the new sections for discussions with the other nine representatives on the HLTF. Once the HLTF agrees on appropriate language to integrate into the Charter, the Foreign Minister and ultimately the Prime Minister are given drafts for approval.

¶4. (C) The HLTF members will meet several times before the draft Charter is completed in October. Kanitha said the HLTF plans to start holding discussions on each of the three pillars beginning in May. At this point, she did not express

concerns with the pace of the drafting process or problems submitting a draft Charter to ASEAN's leaders at the 13th ASEAN Summit in Singapore in November 2007.

RTG POSITION ON KEY CHARTER ISSUES

¶ 15. (C) According to Kanitha, the RTG supports the Eminent Persons Group (EPG) recommendations to establish permanent representatives of member states to ASEAN based in Jakarta, and to accredit ambassadors from ASEAN's dialogue partners.

¶ 16. (C) The RTG supports the EPG recommendation to develop a special fund for narrowing the development gap with contributions from member states. However, the Thai prefer compulsory contributions whereas the EPG recommended voluntary donations. The Thai are floating the idea of a budget based on equal contributions, or one using contributions calculated on a country's capacity to pay. The Thai are not convinced that a voluntary budget will produce desired results.

¶ 17. (C) Kanitha confirmed recent reporting that member states, including Thailand, are having difficulty addressing recommendations to establish a Dispute Settlement Mechanism (DSM). The disagreements range from having a DSM for each individual "pillar" of ASEAN (political/security, economic, and social/cultural) to determining how to address serious breaches of ASEAN objectives, and important agreements. Burma (and to some extent Laos) are viewed as the primary states of concern. She confirmed that governments are not inclined to use sanctions on fellow ASEAN members, but they are looking for some mechanism or language that would help in the event of serious disputes.

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¶ 18. (C) The RTG suggests that consensus should remain the primary basis for decision making. However, the RTG suggests that in the case of non-sensitive issues (i.e., procedural or economic matters) some form of majority voting could be acceptable.

THE ROLE OF CIVIL SOCIETY IN THE CHARTER DRAFTING PROCESS

¶ 19. (C) The RTG and all member states are supposed to engage civil society in the Charter drafting process to ensure its broad acceptance. In Thailand, during the last week of March, the Parliament coordinated a meeting with the MFA in which 100 participants attended from various NGOs and academia. Civil society groups were said to appreciate the opportunity to share their views, but advocated further enhancing their participation in ASEAN. Kanitha recalled that some groups expressed an interest in labor protection, but comments varied greatly depending on the interests of the NGO offering suggestions. Kanitha confided that, while the RTG is trying to make this an inclusive process, NGOs may have to temper their expectations.

¶ 110. (C) Briefly commenting on the ASEAN Civil Society Organization (CSO) meeting held recently in Manila, Kanitha said the MFA had not yet met internally to discuss the suggestions made at that meeting. However, she did say that Thailand believed each existing "pillar" of ASEAN should address environmental issues, rather than the Charter creating a new environmental pillar. However, the idea is still under consideration.

¶ 111. (C) Kanitha said that each ASEAN member was supposed to send six representatives to the CSO meeting in Manila. The RTG tapped a few well-known figures to participate in this meeting, including journalist Kavi Chongkittavorn and Sunai Phasuk from Human Rights Watch-Thailand. Also selected were representatives from the Southeast Press Alliance, the Focus on Global South, the Coordinator for Peoples Empowerment, the

Southeast Asian Committee for Advocacy, and a member of the Political Science faculty at Chulalongkorn University.

RTG SURPRISINGLY TAKES THE LEAD ON HUMAN RIGHTS MECHANISM

¶12. (C) Kanitha said the RTG was leading the charge on introducing a mechanism to address human rights issues in the ASEAN Charter. However, she quickly admitted that the details, including functions and composition of such a mechanism would need to be figured out "at some time in the future."

COMMENT

¶13. (C) Optimists have expressed hope that the ASEAN Charter would move the organization away from its dependence on consensus and create mechanisms for pressuring ASEAN members -- notably Burma -- that fail to uphold or advance democratic norms. From our initial soundings of MFA contacts, however, the Thai appear disinclined to take dramatic steps. We will continue to monitor and report on Thai views on the ASEAN Charter as it takes shape.

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